

further relayed that they, along with Mr. Lockert, objected to the deposition. (Email attached as Exhibit A).

3. I was out of the office but apologized if I had misunderstood the disclosure of Mr. Lockert. I also told Mr. Morris that I would look into the matter. Mr. Morris then responded that if the plaintiffs called Mr. Lockert it would be related to the phone call he received on the evening of the shooting and he offered to provide an affidavit from Mr. Lockert on this point. However, Mr. Morris continued in his position that a deposition would be inappropriate.

4. The next day, in an attempt to clarify the plaintiff's position, I sent another email specifically stating that if the plaintiff was claiming that the phone call during the shooting was privileged and the plaintiff did not intend to call Mr. Lockert as a witness in the case, then I did not wish to depose him. However, I also stated that since Campbell was listed as a witness by the plaintiffs *and* Mr. Campbell discussed the phone call during his own deposition, then I assumed that the communication was not privileged or was one which the plaintiff wished to waive. I asked for a clarification on this point in order to determine whether Plaintiff did actually intend to rely upon Mr. Lockert as a witness at trial. Again, in response, Mr. Morris disclaimed that the phone communication was privileged and offered to provide an affidavit of Mr. Lockert's limited knowledge.

5. At that time, given that no privilege was claimed and the criminal matter was concluded, I provided dates to depose Mr. Lockert via remote means. However, Mr. Morris responded that no deposition of Mr. Locket would occur without an order from the court. In an effort, to comply with the local rule, I stated that it was my belief that the Shelton Rule did not apply to the case at hand, but offered to review any authority

that Mr. Morris had to the contrary. Mr. Morris did provide authority on his point. However, the authority did not speak to the issue in dispute, particularly a situation in which the party opposing the deposition actually intends to rely upon the witness for whom they also claim the applicability of the Shelton test.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19th day of June, 2020.


ROBYN BEALE WILLIAMS

Respectfully submitted,

/s/Robyn Beale Williams

Robyn Beale Williams, BPR #19736

FARRAR & BATES, LLP

211 Seventh Avenue North, Suite 500

Nashville, Tennessee 37219

(615) 254-3060

(615) 254-9835 Fax

robyn.williams@farrar-bates.com

*Counsel for Defendants James Douglas Fox
and Christopher Austin*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 19th day of June 2020, a true and correct copy of the foregoing has been forwarded via the U.S. District Court Electronic Filing System:

John H. Morris, BPR # 35789

NASHVILLE VANGUARD LAW, PLLC

Parkway Towers, Suite 102

404 James Robertson Parkway

Nashville, TN 37219

Phone: 615-229-5529

Fax: 615-679-9520

john.morris@nashvillevanguardlaw.com

Attorney for Plaintiffs

Andrew S. Lockert, BPR #36606

Lockert Legal LLC

112 Frey Street

Ashland City, TN 37015

Phone: 865-776-0623

Fax: 615-792-4867

locklaw97@gmail.com

Attorney for Plaintiffs

Mark Nolan, BPR # 15859
BATSON NOLAN, PLC
121 South Third Street
Clarksville, Tennessee 37040
Phone: (931) 647-1501
Fax: (931) 553-0153
dmnolan@batsonnolan.com
Attorney for Defendants Cheatham County and Mike Breedlove

/s/ Robyn Beale Williams
Robyn Beale Williams